

AMENDED IN SENATE APRIL 11, 2007

SENATE BILL

No. 6

Introduced by Senator Oropeza

December 4, 2006

An act to ~~add Section 66474.12 to~~ *amend Sections 65302, 65560, and 66474 of the Government Code, and to add Part 3.5 (commencing with Section 8510) to Division 5 of the Water Code, relating to flood control.*

LEGISLATIVE COUNSEL'S DIGEST

SB 6, as amended, Oropeza. ~~Flood control.~~ *Land use planning: flood control.*

~~(1) Existing law, the Subdivision Map Act, requires a local agency to include a specified condition in a tentative map that it is authorized to approve, relative to the availability of a sufficient water supply prior to completing a subdivision, authorizes a local agency to condition map approval on the making of public improvements, and authorizes a city or county to require an informational map or survey to be filed or recorded with a final or parcel map relating to flood hazard zones.~~

~~This bill would require the legislative body of a city or county, or the advisory agency, to the extent that the advisory agency is authorized by local ordinance to approve, conditionally approve, or disapprove a tentative map, or a parcel map for which a tentative map was not required, to include as a condition for approval or conditional approval of a tentative map or parcel map that the subdivision applicant have considered, as necessary, existing climate predictions regarding ocean levels.~~

~~The bill would establish a state-mandated local program by imposing that requirement on those entities of local government.~~

(1) The Planning and Zoning Law requires the legislative body of each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city and of any land outside its boundaries that bears relation to its planning. That law requires this general plan to include several elements, including, among others, land use, open-space, safety, and conservation elements, which are required to meet specified requirements.

This bill would require the land use, open-space, safety, and conservation elements of the general plan to include provisions relating to areas that are subject to flooding based on existing climate predictions regarding ocean levels.

The bill would establish a state-mandated local program by imposing these requirements on the legislative bodies of counties and cities.

(2) The Subdivision Map Act requires the legislative body of a city or county to deny approval of a tentative map, or a parcel map for which a tentative map was not required, if it makes certain findings.

This bill would include among the findings requiring denial of approval a finding that the design of the subdivision or type of improvement is likely to cause a substantial risk of flooding of the site or adjacent property, based on existing climate predictions regarding ocean levels.

The bill would establish a state-mandated local program by imposing this requirement on the legislative bodies of counties and cities.

~~(2)~~

(3) Existing law provides state funds, upon appropriation, for the purpose of assisting local land-use planning to avoid or reduce future flood risks and damages.

This bill would require a state or local public entity that undertakes mapping and identification of flood risk to consider existing climate predictions regarding ocean levels.

~~(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 66474.12 is added to the Government~~
2 ~~Code, to read:~~

3 ~~66474.12. The legislative body of a city or county, or the~~
4 ~~advisory agency, to the extent that the advisory agency is~~
5 ~~authorized by local ordinance to approve, conditionally approve,~~
6 ~~or disapprove a tentative map, or a parcel map for which a tentative~~
7 ~~map was not required, shall include as a condition for approval or~~
8 ~~conditional approval of a tentative map or parcel map that the~~
9 ~~subdivision applicant have considered, as necessary, existing~~
10 ~~climate predictions regarding ocean levels.~~

11 ~~SECTION 1. Section 65302 of the Government Code is~~
12 ~~amended to read:~~

13 ~~65302. The general plan shall consist of a statement of~~
14 ~~development policies and shall include a diagram or diagrams and~~
15 ~~text setting forth objectives, principles, standards, and plan~~
16 ~~proposals. The plan shall include the following elements:~~

17 ~~(a) A land use element that designates the proposed general~~
18 ~~distribution and general location and extent of the uses of the land~~
19 ~~for housing, business, industry, open space, including agriculture,~~
20 ~~natural resources, recreation, and enjoyment of scenic beauty,~~
21 ~~education, public buildings and grounds, solid and liquid waste~~
22 ~~disposal facilities, and other categories of public and private uses~~
23 ~~of land. The land use element shall include a statement of the~~
24 ~~standards of population density and building intensity~~
25 ~~recommended for the various districts and other territory covered~~
26 ~~by the plan. The land use element shall identify areas covered by~~
27 ~~the plan which that are subject to flooding, including, but not~~
28 ~~limited to, those areas that are subject to flooding based on existing~~
29 ~~climate predictions regarding ocean levels, and shall be reviewed~~
30 ~~annually with respect to those areas. The land use element shall~~
31 ~~also do both of the following:~~

1 (1) Designate in a land use category that provides for timber
2 production those parcels of real property zoned for timberland
3 production pursuant to the California Timberland Productivity Act
4 of 1982, Chapter 6.7 (commencing with Section 51100) of Part 1
5 of Division 1 of Title 5.

6 (2) Consider the impact of new growth on military readiness
7 activities carried out on military bases, installations, and operating
8 and training areas, when proposing zoning ordinances or
9 designating land uses covered by the general plan for land, or other
10 territory adjacent to military facilities, or underlying designated
11 military aviation routes and airspace.

12 (A) In determining the impact of new growth on military
13 readiness activities, information provided by military facilities
14 shall be considered. Cities and counties shall address military
15 impacts based on information from the military and other sources.

16 (B) The following definitions govern this paragraph:

17 (i) “Military readiness activities” mean all of the following:

18 (I) Training, support, and operations that prepare the men and
19 women of the military for combat.

20 (II) Operation, maintenance, and security of any military
21 installation.

22 (III) Testing of military equipment, vehicles, weapons, and
23 sensors for proper operation or suitability for combat use.

24 (ii) “Military installation” means a base, camp, post, station,
25 yard, center, homeport facility for any ship, or other activity under
26 the jurisdiction of the United States Department of Defense as
27 defined in paragraph (1) of subsection (e) of Section 2687 of Title
28 10 of the United States Code.

29 (b) A circulation element consisting of the general location and
30 extent of existing and proposed major thoroughfares, transportation
31 routes, terminals, any military airports and ports, and other local
32 public utilities and facilities, all correlated with the land use
33 element of the plan.

34 (c) A housing element as provided in Article 10.6 (commencing
35 with Section 65580).

36 (d) A conservation element for the conservation, development,
37 and utilization of natural resources including water and its
38 hydraulic force, forests, soils, rivers and other waters, harbors,
39 fisheries, wildlife, minerals, and other natural resources. The
40 conservation element shall consider the effect of development

1 within the jurisdiction, as described in the land use element, on
2 natural resources located on public lands, including military
3 installations *and areas that are subject to flooding based on*
4 *existing climate predictions regarding ocean levels*. That portion
5 of the conservation element including waters shall be developed
6 in coordination with any countywide water agency and with all
7 district and city agencies that have developed, served, controlled
8 or conserved water for any purpose for the county or city for which
9 the plan is prepared. Coordination shall include the discussion and
10 evaluation of any water supply and demand information described
11 in Section 65352.5, if that information has been submitted by the
12 water agency to the city or county. The conservation element may
13 also cover the following:

- 14 (1) The reclamation of land and waters.
- 15 (2) Prevention and control of the pollution of streams and other
16 waters.
- 17 (3) Regulation of the use of land in stream channels and other
18 areas required for the accomplishment of the conservation plan.
- 19 (4) Prevention, control, and correction of the erosion of soils,
20 beaches, and shores.
- 21 (5) Protection of watersheds.
- 22 (6) The location, quantity and quality of the rock, sand and
23 gravel resources.
- 24 (7) Flood control.
- 25 (e) An open-space element as provided in Article 10.5
26 (commencing with Section 65560).
- 27 (f) A noise element ~~which~~ *that* shall identify and appraise noise
28 problems in the community. The noise element shall recognize the
29 guidelines established by the Office of Noise Control in the State
30 Department of Health Services and shall analyze and quantify, to
31 the extent practicable, as determined by the legislative body,
32 current and projected noise levels for all of the following sources:
 - 33 (1) Highways and freeways.
 - 34 (2) Primary arterials and major local streets.
 - 35 (3) Passenger and freight on-line railroad operations and ground
36 rapid transit systems.
 - 37 (4) Commercial, general aviation, heliport, helistop, and military
38 airport operations, aircraft overflights, jet engine test stands, and
39 all other ground facilities and maintenance functions related to
40 airport operation.

1 (5) Local industrial plants, including, but not limited to, railroad
2 classification yards.

3 (6) Other ground stationary noise sources, including, but not
4 limited to, military installations, identified by local agencies as
5 contributing to the community noise environment.

6 Noise contours shall be shown for all of these sources and stated
7 in terms of community noise equivalent level (CNEL) or day-night
8 average level (L_{dn}). The noise contours shall be prepared on the
9 basis of noise monitoring or following generally accepted noise
10 modeling techniques for the various sources identified in
11 paragraphs (1) to (6), inclusive.

12 The noise contours shall be used as a guide for establishing a
13 pattern of land uses in the land use element that minimizes the
14 exposure of community residents to excessive noise.

15 The noise element shall include implementation measures and
16 possible solutions that address existing and foreseeable noise
17 problems, if any. The adopted noise element shall serve as a
18 guideline for compliance with the state's noise insulation standards.

19 (g) A safety element for the protection of the community from
20 any unreasonable risks associated with the effects of seismically
21 induced surface rupture, ground shaking, ground failure, tsunami,
22 seiche, and dam failure; slope instability leading to mudslides and
23 landslides; subsidence, liquefaction and other seismic hazards
24 identified pursuant to Chapter 7.8 (commencing with Section 2690)
25 of Division 2 of the Public Resources Code, and other geologic
26 hazards known to the legislative body; flooding, *including, but not*
27 *limited to, those areas that are subject to flooding based on existing*
28 *climate predictions regarding ocean levels*; and wild land and
29 urban fires. The safety element shall include mapping of known
30 seismic and other geologic hazards. It shall also address evacuation
31 routes, military installations, peakload water supply requirements,
32 and minimum road widths and clearances around structures, as
33 those items relate to identified fire and geologic hazards.

34 (1) Prior to the periodic review of its general plan and prior to
35 preparing or revising its safety element, each city and county shall
36 consult the California Geological Survey of the Department of
37 Conservation and the Office of Emergency Services for the purpose
38 of including information known by and available to the department
39 and the office required by this subdivision.

1 (2) To the extent that a county's safety element is sufficiently
2 detailed and contains appropriate policies and programs for
3 adoption by a city, a city may adopt that portion of the county's
4 safety element that pertains to the city's planning area in
5 satisfaction of the requirement imposed by this subdivision.

6 *SEC. 2. Section 65560 of the Government Code is amended to*
7 *read:*

8 65560. (a) "Local open-space plan" is the open-space element
9 of a county or city general plan adopted by the board or council,
10 either as the local open-space plan or as the interim local
11 open-space plan adopted pursuant to Section 65563.

12 (b) "Open-space land" is any parcel or area of land or water that
13 is essentially unimproved and devoted to an open-space use as
14 defined in this section, and that is designated on a local, regional
15 or state open-space plan as any of the following:

16 (1) Open space for the preservation of natural resources
17 including, but not limited to, areas required for the preservation
18 of plant and animal life, including habitat for fish and wildlife
19 species; areas required for ecologic and other scientific study
20 purposes; rivers, streams, bays and estuaries; and coastal beaches,
21 lakeshores, banks of rivers and streams, and watershed lands.

22 (2) Open space used for the managed production of resources,
23 including but not limited to, forest lands, rangeland, agricultural
24 lands and areas of economic importance for the production of food
25 or fiber; areas required for recharge of groundwater basins; bays,
26 estuaries, marshes, rivers and streams which are important for the
27 management of commercial fisheries; and areas containing major
28 mineral deposits, including those in short supply.

29 (3) Open space for outdoor recreation, including but not limited
30 to, areas of outstanding scenic, historic and cultural value; areas
31 particularly suited for park and recreation purposes, including
32 access to lakeshores, beaches, and rivers and streams; and areas
33 which serve as links between major recreation and open-space
34 reservations, including utility easements, banks of rivers and
35 streams, trails, and scenic highway corridors.

36 (4) Open space for public health and safety, including, but not
37 limited to, areas which require special management or regulation
38 because of hazardous or special conditions such as earthquake
39 fault zones, unstable soil areas, flood plains, *areas that are subject*
40 *to flooding based on existing climate predictions regarding ocean*

1 *levels*, watersheds, areas presenting high fire risks, areas required
2 for the protection of water quality and water reservoirs and areas
3 required for the protection and enhancement of air quality.

4 (5) Open space in support of the mission of military installations
5 that comprises areas adjacent to military installations, military
6 training routes, and underlying restricted airspace that can provide
7 additional buffer zones to military activities and complement the
8 resource values of the military lands.

9 (6) Open space for the protection of places, features, and objects
10 described in Sections 5097.9 and 5097.993 of the Public Resources
11 Code.

12 *SEC. 3. Section 66474 of the Government Code is amended to*
13 *read:*

14 66474. A legislative body of a city or county shall deny
15 approval of a tentative map, or a parcel map for which a tentative
16 map was not required, if it makes any of the following findings:

17 (a) That the proposed map is not consistent with applicable
18 general and specific plans as specified in Section 65451.

19 (b) That the design or improvement of the proposed subdivision
20 is not consistent with applicable general and specific plans.

21 (c) That the site is not physically suitable for the type of
22 development.

23 (d) That the site is not physically suitable for the proposed
24 density of development.

25 (e) That the design of the subdivision or the proposed
26 improvements are likely to cause substantial environmental damage
27 or substantially and avoidably injure fish or wildlife or their habitat.

28 (f) That the design of the subdivision or type of improvements
29 is likely to cause serious public health problems.

30 (g) That the design of the subdivision or the type of
31 improvements will conflict with easements, acquired by the public
32 at large, for access through or use of, property within the proposed
33 subdivision. In this connection, the governing body may approve
34 a map if it finds that alternate easements, for access or for use, will
35 be provided, and that these will be substantially equivalent to ones
36 previously acquired by the public. This subsection shall apply only
37 to easements of record or to easements established by judgment
38 of a court of competent jurisdiction and no authority is hereby
39 granted to a legislative body to determine that the public at large

1 has acquired easements for access through or use of property within
2 the proposed subdivision.

3 *(h) That the design of the subdivision or type of improvement*
4 *is likely to cause a substantial risk of flooding of the site or*
5 *adjacent property, based on existing climate predictions regarding*
6 *ocean levels.*

7 ~~SEC. 2.~~

8 SEC. 4. Part 3.5 (commencing with Section 8510) is added to
9 Division 5 of the Water Code, to read:

10
11 PART 3.5. FLOOD RISK MAPPING
12

13 8510. A state or local public entity that undertakes mapping
14 and identification of flood risk shall consider existing climate
15 predictions regarding ocean levels.

16 ~~SEC. 3. If the Commission on State Mandates determines that~~
17 ~~this act contains costs mandated by the state, reimbursement to~~
18 ~~local agencies and school districts for those costs shall be made~~
19 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
20 ~~4 of Title 2 of the Government Code.~~

21 SEC. 5. *No reimbursement is required by this act pursuant to*
22 *Section 6 of Article XIII B of the California Constitution because*
23 *a local agency or school district has the authority to levy service*
24 *charges, fees, or assessments sufficient to pay for the program or*
25 *level of service mandated by this act, within the meaning of Section*
26 *17556 of the Government Code.*